

19 June 1861. 24 VICT.



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B I L L

[AS AMENDED IN COMMITTEE]

INTITLED

An Act to facilitate the Remedies on Bills of Exchange and Promissory Notes in Ireland by the Prevention of frivolous or fictitious Defences to Actions thereon.

WHEREAS bona fide Holders of dishonored Bills of Exchange and Promissory Notes are often unjustly delayed and put to unnecessary Expense in recovering the Amount thereof by reason of frivolous or fictitious Defences to Actions thereon, and it is expedient that greater Facilities than now exist should be given for the Recovery of Money due on such Bills and Notes: Be it enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

1. From and after the Twenty-first Day of October One thousand eight hundred and sixty-one all Actions upon Bills of Exchange or Promissory Notes commenced within Six Months after the same shall have become due and payable may, in case the Plaintiff shall desire to proceed under this Act, be commenced as herein-after mentioned; that is to say, the Summons and Plaint shall be in the Form prescribed by the Common Law Procedure Amendment Act (Ireland), 1853; [Bill 189.]

From 21st October 1861 all Actions upon Bills of Exchange, &c. may be by Summons in the Form in Common Law Procedure

but observe

Amendment
Act (Ireland)
1853.

but in addition thereto, and to any Particulars or Indorsements required by the said Act, such Summons and Plaint shall have at the Head thereof a Notice in the Form contained in the Schedule (A.) to this Act annexed; and in any Case in which the Summons and Plaint shall be in such Form it shall not be lawful for the Defendant 5 to file any Appearance or Defence to the said Action unless he shall obtain Leave from a Judge, as herein-after mentioned, so to appear and defend; and in default of his obtaining such Leave, or of Appearance and Defence in pursuance thereof, the Plaintiff shall be entitled to mark Judgment with Costs in pursuance of the Provisions of the 10 Common Law Procedure Amendment Act (Ireland), 1853, for any Sum not exceeding the Sum mentioned in the Notice at the Commencement of the Summons and Plaint.

Defendant
showing a
Defence
upon the
Merits, to
have Leave
to appear.

2. A Judge of any of the Superior Courts of Common Law in Ireland may, upon Application made within the Period of Twelve 15 Days from such Service, or at any Time before Judgment marked, give Leave to appear and defend such Action on the Defendant paying into Court the Sum claimed by the Summons and Plaint, or upon Affidavits satisfactory to the Judge, which disclose a legal or equitable Defence, or such Facts as would make it incumbent on the Holder to 20 prove Consideration or such other Facts as the Judge may deem sufficient to support the Application, and on such Terms as to Security, or otherwise, as to the Judge may seem fit.

Judge may,
under special
Circum-
stances, not
order Judg-
ment.

3. After Judgment the Court or a Judge may, under special Cir- cumstances, set aside the Judgment, and, if necessary, stay or set 25 aside Execution, and may give leave to appear and defend the Action, if it shall appear to be reasonable to the Court or Judge to do so, and on such Terms as to the Court or Judge may seem just.

Judge may
order Bill to
be deposited
with Officer
of Court in
certain Cases.

4. In any Proceedings under this Act it shall be competent to the Court or a Judge to order the Bill or Note sought to be proceeded 30 upon to be forthwith deposited with an Officer of the Court, and further to order that all Proceedings shall be stayed until the Plaintiff shall have given Security for the Costs thereof.

Remedy for
the Recovery
of Expenses
of noting
Nonaccept-
ance of dis-
honoured
Bill.

5. The Holder of every dishonoured Bill of Exchange or Promissory Note shall have the same Remedies for the Recovery of the Expenses 35 incurred in noting the same for Nonacceptance or Nonpayment or otherwise, by reason of such Dishonor, as he has under this Act for the Recovery of the Amount of such Bill or Note.

Common
Law Pro-
cedure Acts

6. The Provisions of the "Common Law Procedure Amendment Act, (Ireland,) 1853," and the "Common Law Procedure Amendment 40 Act, (Ireland,) 1856," and all Rules made under or by virtue of either
of

of the said Acts, shall, so far as the same are or may be made applicable, extend and apply to all Proceedings to be had or taken under this Act. and Rules inserted with this Act.

7. The Judges of the Superior Courts of Common Law in Ireland shall have Power to frame all Rules and Process necessary thereto. Judges of Superior Courts to frame Rules.

8. This Act shall apply to Ireland only. Extent of Act.

9. In citing this Act in any Instrument, Document, or Proceeding, it shall be sufficient to use the Expression "The Summary Procedure on Bills of Exchange (Ireland) Act, 1861." Short Title.

SCHEDULE referred to in the foregoing Act.

A.

The following Notice is to be printed at the Commencement of the Summons and Plaint, and before the Name and Title of Her Majesty.

The Defendant [*Richard Roe*] is hereby warned and required to take Notice,

That this Action being brought on the under-mentioned Bill of Exchange [*or Promissory Note*] is brought under the "Summary Procedure on Bills of Exchange (Ireland) Act, 1861;" and that unless within Twelve Days from the Service hereof he shall obtain Leave from One of the Judges of the Superior Courts of Law in Dublin to appear and defend the Action, and shall within that Time file his Appearance and Defence, the Plaintiff [*John James*] will be entitled, without any further Notice whatever, to issue Execution against him for the Sum of Pounds [*here state the Sum claimed*], and the Costs of this Action.

Leave to appear may be obtained on an Application to any of the Judges supported by Affidavit, showing that there is a Defence to the Action on the Merits, or that it is reasonable that the Defendant should be allowed to appear and defend the Action, or by lodging the Amount claimed in Court.

Bills of Exchange and
Promissory Notes (Ireland).

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BILL

[AS AMENDED IN COMMITTEE]

INTRODUCED

An Act to facilitate the Remedies on
Bills of Exchange and Promissory
Notes in Ireland by the Persecution
of frivolous or fictitious Defences to
Actions thereon.

(Brought from the Lords 2 May 1861.)

Ordered, by The House of Commons, to be Printed,
19 June 1861.

[Bill 186.]

Order 1. 6s.